IN THE DISTRICT COURT OF APPEAL,
FIRST DISTRICT, STATE OF FLORIDA.
CASE NO. C-441

ROY J. NEERING,

Appellant,

-vs-

STATE OF FLORIDA,

Appellee.

AFFIDAVIT OF ASSISTANT STATE ATTORNEY

STATE OF FLORIDA,

COUNTY OF DUVAL,

Before me, the undersigned authority, personally appeared Nathan Schevitz, who being by me first duly sworn deposes and says:

1. That he is an Assistant State Attorney of the Fourth Judicial Circuit of the State of Florida, and as such Assistant State Attorney did on May 9, 1961, file in the Circuit Court of the Fourth Judicial Circuit of Florida, in and for Duval County, an Information for contempt citation against Roy J. Neering, the Appellant in the above entitled proceedings.

2. Thereupon, pursuant to the order of Honorable Roger J. Waybright, one of the Judges of the said Circuit Court, a rule to show cause was issued by the Clerk of said Circuit Court on May 9, 1961, directing the said Roy J. Neering "to be and appear before Honorable Roger J. Waybright, one of

the Judges of the aforesaid Circuit Court of Duval County, Florida, on the 15th day of May, A. D. 1961, at 3:00 o'clock p.m. at the Court House in Jacksonville, Duval County, Florida, and show cause if any you have, why you should not be adjudged guilty of contempt of and against said Court and punished accordingly."

3. In connection with his presentation of the matters complained of in the Information for contempt citation, deponent, the said Assistant State Attorney filed with the Clerk of said Circuit Court on May 10, 1961, his praecipe for witness subpoenas directed to three witnesses to require their appearance "before Honorable Roger J. Waybright, Judge of the above entitled Court at Circuit Court Chambers." At the time of the filing of said praecipe Deponent presumed that the hearing on the aforesaid rule to show cause would be held before the said Judge in his Chambers. It was not until after the issuance of said witness subpoenas that Deponent was informed that the hearing would take place in one of the Courtrooms of the said Circuit Court rather than in the Chambers of the Judge.

4. As has been the practice in this Circuit, and in many other Circuits, the witness subpoenas were made returnable at 1:45 o'clock p.m. of the day of the hearing, although the hearing was set for 3:00 o'clock p.m. This was to give Deponent an opportunity to discuss further with the witnesses the issues in the cause and to interrogate them further regarding their proposed testimony. Deponent saw no necessity for causing the additional expense of issuing two separate sets of witness subpoenas, one returnable before the State Attorney at 1:45 o'clock p.m. and the other before the Judge at 3:00 o'clock p.m.

5. Deponent further says that he did talk to the witnesses upon their arrival at the Court House, interrogated them concerning the testimony which he intended to present to the Court at the hearing and made final preparations for

the said hearing, and that to the best recollection of Deponent, at no time did these witnesses or any of them, enter the Judges' Chambers.

Nathan Adams

Sworn to and subscribed before me this 18th day of April, 1962.

Notary Public, State of Florida at Large. My commission expires Jan. 16, 1965. Bonded by American Surety Co. of N.Y.